IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

MFA.No. 55 of 2003(B)

AGAINST THE AWARD DT.2.3.02 IN OP(MV).1120/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA .
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APPELLANT: PETITIONERS
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1. **MANI W/O. LATE THANKAPPAN, NADAVIL HOUSE, EDAKKUNNY VILLAGE, THAIKATTUSSERY.**
2. **SAHADEVAN, S/O. LATE THANKAPPAN, DO. DO.**
3. **LEKHA, D/O. LATE THANKAPPAN, DO. DO.**
4. **KURUMBAKUTTY M/O.LATE THANKAPPAN, DO. DO**

BY ADV. SRI.T.N.MANOJ
SRI.DINESH R.SHENOY

RESPONDENTS: RESPONDENTS
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1. **SRI.JOSE P.VARGHESE, PARTHALLOOKKARAN HOUSE, KURIACHIRA, THRISSUR DISTRICT.**
2. **V.A.SHAJU, S/O. ALI, VAZHAKMADAM HOUSE, P.O.KODALI, VIA.KODAKARA.**
3. **THE MANAGER, ORIENTAL INSURANCE CO.LTD., ROUND WEST, THRISSUR.**

BY ADV. SRI.ANCHAL C.VIJAYAN - R3
SRI.RENJITH THAMPAN - R1
SMT.P.A.ANITHA

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 23/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A.No.55 of 2003

Dated this the 23rd day of May, 2007

Judgment

Koshy, J.

A 50 year old man died in a motor accident. The Motor Accidents Claims Tribunal found that the accident occurred due to the negligence of the driver of the vehicle insured by the third respondent insurance company. He left behind his widow aged 41 years apart from a son and a daughter. He was also looking after his mother, fourth respondent, aged 78. An amount of Rs.3,00,000/- was claimed as total compensation. Tribunal awarded Rs.1,33,600/- as the compensation payable. Only quantum of compensation is disputed in this appeal.

2. First contention taken was that the Tribunal has fixed 11 as the multiplier. Since the deceased person was aged 50, 13 should have been taken as the multiplier. We are of the view that no interference is required in the multiplier taken by the tribunal. No hard and fast rule is given for fixing the multiplier. Second schedule is only a guideline and in the second

schedule, for a person aged between 50 and 55, 11 is the multiplier. Therefore, we see no ground to change the multiplier fixed by the tribunal in an appeal.

3. Secondly it was contended that only Rs.1,200/- was taken as the monthly income of the deceased. The deceased was a dye maker, a technical worker. He was maintaining a family. Ext.A2 is the salary certificate from the employer Keerthi Engineering company wherein it is shown that his monthly salary was Rs.3,000/-. It is argued by the counsel for the appellants that there was a likelihood of further increase in the salary. Ext.A2 certificate was marked with consent and no counter evidence is adduced. Death was occurred in 1994. The deceased was maintaining a family and he was a technical worker. Even considering the rate of wages of an unskilled worker in Kerala, we are of opinion that Rs.3,000/- claimed as monthly income should not have been reduced by the tribunal. If that be so, one-third has to be deducted and two-third of the above can be fixed as the value of dependency of the family. Therefore, compensation payable will be Rs.2000 x 12 x 11 = Rs.2,64,000/-. The tribunal has awarded only Rs.1,05,600/- taking Rs.800/- as the monthly

contribution. So, claimants will be entitled to an additional compensation of Rs.1,58,400/-. Even though it was contended that compensation awarded under other heads are too meagre, we find no reason to interfere in the compensation awarded by the tribunal under other heads. The additional compensation of Rs.1,58,400/- should be deposited by the third respondent insurance company with 9% interest from the date of application till its deposit within three months from the date of receipt of a copy of this judgment. The additional compensation should be disbursed in the same proportion as fixed by the Tribunal.

Appeal is allowed partly.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A. NO.55/2003

JUDGMENT

Dated:23rd May, 2007